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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

In re Application of: :
STEER, Clifford, et al. : COMMUNICATION
U.S. Application No.: 10/549,867 :
PCT No.: PCT/US2003/009819 :
International Filing Date: 02 April 2003 :
Priority Date: None :
Atty Docket No.: 110.01990101 :
For: METHODS OF PROMOTING CELL :
VIABILITY :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371(c).

BACKGROUND

On 02 April 2003, applicants filed international application PCT/US2003/009819. The application did not claim an earlier priority date, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 02 October 2005.

On September 22, 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the U.S. basic national fee and a declaration executed by one of the two inventors herein.

On 25 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied on 22 September 2005.

Also on 25 January 2007, a filing receipt was issued identifying 22 September 2005 as the 371(c) date.

DISCUSSION

A review of the application file reveals that the declaration filed herein was not executed by the second inventor, Walter C. LOW. The declaration therefore fails to satisfy the requirements of 37 CFR 1.497(a)(1), and it cannot be accepted in satisfaction of the oath or declaration requirement of 35 U.S.C. 371(c)(4).

Because applicants have not yet satisfied the oath or declaration requirement of 35 U.S.C. 371(c)(4), the Notification Of Acceptance and filing receipt mailed 25 January 2007 were issued in error (both of these forms indicate that the requirements of 35 U.S.C. 371(c) were satisfied as of 22 September 2005). The Notification Of Acceptance and filing receipt mailed 25 January 2007 are therefore appropriately vacated.

Before a new Notification Of Acceptance and filing receipt may be properly issued, applicants are required to submit an oath or declaration executed by inventor Walter C. LOW that satisfies the requirements of 37 CFR 1.497.

CONCLUSION

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 25 January 2007 are hereby **VACATED**.

Applicants have not yet submitted an acceptable oath or declaration executed by inventor Walter C. LOW.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a properly executed oath or declaration in compliance with 37 CFR 1.497, and the surcharge for filing the oath or declaration later than thirty months after the priority date.



Richard M. Ross

Attorney Advisor

Office of PCT Legal Administration

Telephone: (571) 272-3296

Facsimile: (571) 273-0459